

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2015-14) & SITE PLAN APPROVAL
Storage of Construction Equipment**

**22 Donahue Lane, North Grafton, MA
Albert Mantelli (Owner) / Macura Excavating, LLC**

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Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Macura Excavating LLC, 14 Stub Toe Lane, Southborough, MA 01772 (hereinafter the APPLICANT) for a Special Permit and Site Plan Approval for the storage of construction equipment at 22 Donahue Lane, and shown on the Grafton Assessor's Map 26, Lot 2A, and owned by Albert Mantelli, 29 Hilltop Street, North Grafton, MA 01536 (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds Book 5224, Page 527.

The above referenced Application for a Special Permit (hereinafter APPLICATION) was submitted on November 16, 2015. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 25 and December 3, 2015 and posted with Town Clerk's Office. The Planning Board considered the Application at a properly posted meeting of said Board on December 14, 2015. Following public input the hearing was closed on December 14, 2015.

The following Board members were present during the entire public hearing process: Chairman Sargon Hanna, Vice Chairman Michael Scully, Clerk Robert Hassinger, and Members Linda Hassinger and David Robbins. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or the Office of the Planning Board.

I. SUBMITTALS

The following items were submitted to the Board for its consideration of these applications:

EXHIBIT 1. Unbound Application packet submitted by the Applicant on November 16, 2015; includes the following:

- Application for Special Permit; dated October 29, 2015; 1 page.
- Application for Site Plan Approval; dated October 30, 2015; 1 page.
- Certificate of Good Standing; signed by the Treasurer and Collector's office October 30, 2015; 1 page.
- Certified Abutters list; signed by the Assessor's Office Manager; dated November 16, 2015; 1 page.
- Fiscal Year 2016 Preliminary Real Estate Tax Bill; Marked as PAID by Treasurer/Collector on October 30, 2015; 1 page.
- Project Narrative; submitted by Michael Macura; dated October 29, 2015; 2 pages.
- Property Information; 8 1/2" X 11"; color; 1 page.
- Site Images; 8 1/2" X 11"; color; 3 pages.
- Commercial Property Record Card; 8 1/2" X 11"; color; dated October 16, 2015; 1 page.

- EXHIBIT 2. Departmental Comment Form; Zoning Board of Appeals; dated and received November 20, 2015; 1 page.
- EXHIBIT 3. Written Request for Public Hearing Continuance to January 11, 2016 submitted by the Applicant at the December 14, 2015 public hearing; 1 page.
- EXHIBIT 4. Public Hearing Sign-in Sheet, December 14, 2015; 1 page.
- EXHIBIT 5. Correspondence from Macura Excavating LLC, Special Use Permit Application – 22 Donahue Lane; dated December 21, 2016; received December 22, 2016; 1 page.
- EXHIBIT 6. Public Hearing Sign-in Sheet, January 11, 2016; 1 page.

II. WAIVERS

- W1. At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 to **GRANT** the Applicant's request for a waivers from the requirements of **Section 1.3.3.(d) – Site Plan**. The Applicant stated that no modifications to the site are proposed and that they intend to use the site in the same manner as established by the current Owner. After review of the application and in conjunction with testimony received at the public hearing the Board finds that the waiver request for submission of a site plan is appropriate in this particular case.
- W2. At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 to **GRANT** the Applicant's request for a waivers from the requirements of **Section 1.3.3.3** as follows:
- (e) Stormwater Hydrological Study
 - (f) Volume of Earth Removal Report
 - (g) Written Statements regarding Section 4.1 of the Zoning By-Law

It is noted that no changes in the site are proposed. The Board finds that waivers from these requirements are appropriate given the scope of the proposed use as described in the Application and as presented at the public hearing.

- W3. At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, as well as consideration for the size and scope of the project, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 to **GRANT** the Applicant's request for a waiver from the requirements of Section 8.2 (Traffic Study) of the ZBL. The Board finds that the Applicant adequately addressed questions raised about the amount and type of traffic to be generated to and from the site (see FINDING #F3, EXHIBIT #5). The Board finds that a traffic study is not required given the nature and scope of the proposed use of the site.

The Board notes that the Applicant requested waivers from the following sections of the Zoning By-Law (see EXHIBIT #1):

- Section 5.1 – Special Regulations - General
- Section 5.2 – Special Regulations – Multi-Family Dwellings
- Section 5.3 – Special Regulations – Major Residential Development
- Section 6.4 – Special Permits – Flood Plain Districts
- Section 7.4.D-H – Provisions of the Water Supply Protection Overlay District

The Board finds that these waiver requests are not applicable to the proposed use of the site. No action was taken.

III. FINDINGS

At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 to make the following findings:

- F1. That the site is zoned Office / Light Industrial (OLI) and is not within the Water Supply Protection Overlay District (WSPOD). The total site acreage is 4.02 acres and is located at the end of Donahue Lane. The Applicant is seeking to purchase the property from the Owner for the purposes of storing construction equipment in the existing structure. No site changes are proposed.
- F2. That during the public hearing the Board and the Applicant discussed nature of the Application (see EXHIBIT #1). There is an existing single bay garage on the site which was previously occupied by an excavation company. The Applicant is seeking to purchase the site for the purposes of storing tools and light equipment such as pickup trucks, Bob Cats and pipe, trench shoring, etc. No heavy earth moving equipment such as bulldozers or dump trucks will be stored on site (see EXHIBIT #1). The single bay garage will be used to for interior storage of weather sensitive materials. The Applicant's business is seasonal in nature and equipment will be moved to job sites through their work months primarily from March through December. No hazardous materials will be stored on site. No site changes are proposed.
- F3. That during the public hearing the Board and the Applicant discussed traffic impacts. The Board received testimony from Wilford Fairbanks of 4 Donahue Lane. He expressed his concern about traffic and maintenance issues on Donahue Road and suggested restricting future use, so to not add to the existing machinery on Donahue Lane. Mr. Macura noted that equipment housed over the winter months will depart the site early March, remain at their job site and return after the work is completed. The equipment will not be brought back and forth from job sites on a daily basis. He further noted that his pick-up truck will be in and out of the site on a daily basis. The Board requested that Mr. Macura prepare a statement which outlines the anticipated trips to and from the site. The Board finds that the Applicant complied with their request – see EXHIBIT #5. The Board finds that the documentation adequately addressed the issue of traffic impacts along Donahue Lane and that the impacts were found to be minimal in nature.
- F4. That during the public hearing the Board and the Applicant discussed environmental impacts given the presence of wetlands on the northwester portion of the site. Town Planner Joe. Laydon noted that

when meeting with the other department heads on this application, no opposition was raised so as long as the soil is not disturbed on the property and no site work is done. Due to the property's location to the wetlands, no tree cutting would be permitted.

At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 make the following findings with regards to Section 1.5.5 of the Grafton Zoning By-Law:

- F5. With regard to Section 1.5.5(a) of the ZBL, that based upon the Findings stated within this Decision, ingress and egress to the property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe, are adequate. The Board finds that the Applicant demonstrated there would be no significant traffic impacts associated with the proposed use (see FINDING #F3.)
- F6. With regard to Section 1.5.5(b) of the ZBL, that based upon the Findings stated within this Decision, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory. No change to the existing conditions are proposed.
- F7. With regard to Section 1.5.5(c) of the ZBL, that based upon the Findings stated within this Decision, refuse collection or disposal and service areas are satisfactory. No changes to existing conditions are proposed.
- F8. With regard to Section 1.5.5(d) of the ZBL, which based upon the Findings stated within this Decision, screening and buffering with reference to type, dimensions and character are adequate. No changes to existing conditions are proposed.
- F9. With regard to Section 1.5.5(e) of the ZBL, that based upon the Findings stated within this Decision, signs and exterior lighting with reference to glare, traffic safety, economic effect is compatible and in harmony with properties in the district. No signs are proposed.
- F10. With regard to Section 1.5.5(f) of the ZBL, which based upon the Findings stated within this Decision, the required yards and other open space requirements are adequate. No changes to existing conditions are proposed.
- F11. With regard to Section 1.5.5(g) of the ZBL, that the proposed use of the property is generally compatible with adjacent properties and properties in the district. The Applicant is proposing to reuse the site in a similar manner as the previous owner. No other changes are proposed. (See FINDING #F2).
- F12. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements, and based upon the Findings stated within this Decision, there will not be any significant adverse impact on any public or private water supply. Maintenance of equipment will be contained inside the existing buildings and will be regulated by local and state laws.
- F13. With regard to Section 1.5.5(i) of the ZBL, the Board finds that the proposed use is not located within the Water Supply Protection Overlay District.

- F14. With regard to Section 1.5.5(j) of the ZBL, based upon the Findings stated within this Decision, protection of important historic, cultural and scenic landscapes is satisfactory. This requirement does not apply given the scope and nature of the proposed use.

At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 to make the following Findings:

- F15. That Section 1.3.3.2 of the ZBL requires that the procedure for the Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
- F16. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board.
- F17. The Board finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure. The Board finds that the Applicant submitted waiver requests from Section 1.3.3 of the Grafton Zoning By-Law (see EXHIBIT #1).
- F18. That the Application as described within the Exhibits of this Decision, the waivers requested, and the resulting site plan, are not contradictory or inconsistent with the intent and purposes set forth in Section 1.3.3.1 of the ZBL.

IV. DECISION

At their meeting of January 11, 2016, after due consideration of the exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5-0 to **GRANT** the Special Permit and Site Plan Approval subject to the following conditions:

- C1. This Decision reflects the Board's approval of the storage of construction equipment as described in this DECISION and presented in EXHIBIT #1. No rental or subletting of any portion of the property to any other party is permitted.
- C2. The Board reserves the right to reconsider this DECISION in the event that there is a significant increase in traffic generated from the site or if any substantial change in use occurs including but not limited to excessive exterior storage of equipment or the storage of heavy equipment.
- C3. An modification to the site, including but not limited to activities which disturb the site such as soil movement or removal or tree cutting, will be subject to Site Plan Approval and other local and state permits are required by law (see EXHIBIT #1 and FINDING #F4).
- C4. The Applicant shall comply with any Order of Conditions and/or permits issued by the Grafton Conservation Commission.
- C5. All applicable requirements of Town, State or Federal agencies are hereby incorporated by reference as a requirement of this Decision.

- C6. Any modification to use authorized by this Decision shall require, prior to implementing such change, a determination from the Planning Board as to whether the proposed change is substantially different than presented in the materials and information used in making this Decision. The Planning Board reserves the right to solicit comments from other Town boards, departments and committees, as well as its consulting engineer, in making determinations regarding such changes. The Planning Board may, upon its determination, require a modification of this Decision if it finds that the proposed changes are substantial in nature and of public concern, and substantially alter the plans and information used in making this Decision.
- C7. This Special Permit shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy provided to the Planning Board and the Building Department. Said copy will include recording information such as the WDRD Book and Page Number and/or Instrument Number.
- C8. By recording this Special Permit Decision in the Worcester District Registry of Deeds, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.

V. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 to **GRANT** the Applicant's Special Permit with Conditions for storage of construction equipment at 22 Donahue Lane based on the information received at the public hearing and the aforementioned findings.

<u>Sargon Hanna, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Michael Scully, Vice Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD


Joseph Laydon, Town Planner

1-12-2016
Date

cc: Applicant / Owner
• Building Inspector

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Donna Girouard, Town Clerk

Date